IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER,
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 19110 of 2004

Between:

Inagala Hari Babu, S/o. Subba Rao,
R/o. Ethamukkala Post, Kothapatnam Mandal, Prakasam District.

.PETITIONER/APPELANT

AND

1. The Revenue Divisional Officer, Ongole, Prakasam District.
2. The Joint Collector, Ongole, Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or order or direction more particularly in the nature of Writ of Mandamus, declaring action of the 1st respondent in issuing the proceedings vide Rc.C.No.1262/2004, dated 24-9-2004 suspending the dealership authorization of the petitioner without giving any notice or opportunity as arbitrary, illegal and violation of principles of natural justice in the interest of justice.

Counsel for the Petitioner:MR.P.NAGENDRA REDDY

Counsel for the Respondent Nos.1 and 2: GP FOR CIVIL SUPPLIES

The Court made the following :

ORDER:

The petitioner is the authorized dealer of Ethamukkala Village, Kothapatnam Mandal, Prakasam District.

This writ petition is filed aggrieved by the order dated 24.09.2004 passed by the first respondent-Revenue Divisional Officer, Ongole, Prakasam District, whereunder the authorization of the petitioner was suspended with immediate effect, on the basis of the report of the Mandal Revenue Officer, Kothapatnam, dated 16.09.2004, stating that the petitioner has been indulging in certain irregularities in distribution of the essential commodities to the card holders.

This Court, while directing notice to the respondents, having *prima facie found* that the impugned order, which is in the nature of a final order by way of substantive punishment, was passed without affording an opportunity to the petitioner to rebut the allegations, by order dated 14-10-2004 granted interim suspension of the impugned order.

I have heard the learned counsel for the petitioner as well as the learned Government Pleader for Civil Supplies appearing for the respondents.

Despite service of notice, no counter-affidavit has been filed on behalf of the respondents so far, and nothing has been placed before this Court to show that the petitioner was issued any notice before passing the impugned order. However, it is brought to my notice that against the impugned order, the petitioner preferred an appeal, and the same is pending before the second respondent-Joint Collector, Ongole. In the circumstances, and keeping in view that a prima-facie case is made

out that the impugned order of suspension is in violation of the principles of natural justice, the balance of convenience lies in favour of the petitioner and it would be appropriate to allow him to continue as dealer pending disposal of the statutory appeal.

Accordingly, the writ petition is disposed of with a direction to the second respondent to dispose of the appeal preferred by the petitioner against the order of the first respondent dated 24.09.2004 pending on his file, and to pass appropriate orders in accordance with law, as expeditiously as possible, preferably within a period of four weeks from the date of receipt of this order. Till the disposal of the appeal, the impugned order dated 24.09.2004 shall not be given effect to. No costs.

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04-11-2004

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To

1. The Revenue Divisional Officer, Ongole, Prakasam District.
2. The Joint Collector, Ongole, Prakasam District.

3. Two C.Cs. to the G.P. for Civil Supplies, High Court Buildings, Hyderabad (OUT).

4. Two C.D. copies.